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Delegation IV

DELEGATION: THE FORTY-YEAR COVER-UP

[After the campaign of 1964, for ten years I was wholly occupied with the Vietnam War. As soon as that ended in May, 1975, I came back to a preoccupation with the dangers of our nuclear war posture and the strategic competition with the Soviet Union. One of my priorities was to try to get Congressional hearings on the nuclear war plans, including the issue of predelegation of nuclear weapons authority, with its dangers of triggering nuclear war. I thought that needed urgent attention.]

After my trial and Watergate, I had good access to high-level figures in the media. I got an appointment with Walter Cronkhite (who had interviewed me while I was underground in 1971) and gave him a full account of what I had learned in my work on nuclear command and control and war planning, essentially the same briefing I had given to McGeorge Bundy in 1961. He sounded excited, and asked me to work with Robert Shachne, head of the CBS Washington bureau. Shachne flew from Washington to San Francisco to spend a day with me going over what I had to tell. Like Cronkhite, he was especially struck by the story of delegation.

He wanted documents, which I didn't have (except for the transcript of my talks with Charlie Nesson in 1971 for my trial, which I excerpted for him). He said he would pursue the story in Washington and would be in touch. But nothing came of it. In Washington he went to the Pentagon and to the White House, and got the same response both places: "No comment." They didn't deny what I said, nor did they question my credentials, they just refused to say anything on

the subject. He said he couldn't go any further, without more of an opening.

I got in touch with Bob Woodward and Carl Bernstein, who had just finished their book, The Final Days. Same experience: they flew out to San Francisco to talk to me, with Bernstein spending an extra day, listened to all of it with a good deal of excitement, but gave up on the story when they went back to the White House and the Pentagon and got a cold shoulder. Woodward had commented that it had all rung true to him, because in the Navy he had been a Nuclear Control Officer on board his ship and had dealt with Emergency Action Messages. My account of how all the officers dealing with these had worked out ways for circumventing the two-man rule jibed with his own experience. But without documents, or a corroborating source from within the system currently, they didn't feel they had a story.

I was puzzled by the readiness with which both of these top teams of journalists gave up on the story, and their unwillingness to go with my testimony alone. Granted, I was a very controversial figure politically, but not with respect to veracity. No one had ever claimed I'd lied about anything--I was on trial for telling the truth, not lying--and it wasn't hard to verify my credentials on these subjects, my past access. Why couldn't they just say, "Daniel Ellsberg says...the White House refuses to comment..."? But for whatever reason, that wasn't a story they wanted to run with: perhaps (I realized later) because they were such celebrated journalists themselves.

It confirmed what I had begun to learn from my attempts to warn journalists in 1972 about Nixon's secret Vietnam strategy: without documents even I, even after the Pentagon Papers, had very little ability to get an account of government policy sharply contrary to the official line into news stories, either in print or on TV. Oddly, other people seemed to do this (certainly, government officials on background) but that was my own experience from the summer of 1971 on, and

especially for these nuclear issues. If there were special reasons that applied to me and my image, or this particular subject, they were never spelled out for me.

What I wanted from a news story was enough interest and discussion to be generated to stimulate some Congressman into pursuing the whole subject with hearings, which could bring out what I couldn't myself, what the situation was today. My next step was to try to get that directly. I talked to Senator Stuart Symington, who was on the Armed Service Committee (and had been Truman's Secretary of the Air Force) about holding hearings.

He didn't express any doubt personally in what I was saying, or my credentials, any more than any of them did. (He'd been among the group of senators I'd briefed about the "real" secrecy system just after my trial ended.) But he too wanted more to start with than just my account. I suspect that, like the journalists, he feared that what he would end up with was my statement and nothing else, a stonewall from the Administration, a string of No Comments or official denials. If a senator, or the newsmen, presented that as worthy of public attention, they would seem to be siding with me, staking their own reputations on my credibility.

From my own point of view, that didn't sound so dangerous, after the events of 1971-75. But after Nixon resigned and his supporters came to see me as having played a major role in causing that, I'd become a much more controversial figure than I was when the Papers first came out. Standing alone with me hadn't worked well for Senator Mike Gravel even then, and it wasn't where these people wanted to be.

Symington and I were in his car discussing this, on the way to the Capitol. At one point he asked, "Is there any reason you couldn't say all of this in open hearings, as a witness?" I told him

no, enthusiastically. Then he seemed to think better of it. He said, just before he got out, "Write me a memo on all this. *Don't sign it.* I'll see what I can do with it." That idea didn't sit well with me. I'd spent the largest part of my life writing blind memos in the bureaucracy, and I felt that was over for me. I didn't make off-the-record statements any more, either. I took this as a turn-off, maybe wrongly, and I didn't pursue it.

But after I'd told my story to Representative Ottinger of New York, who was on the House Foreign Relations Committee, he got Clement Zablocki, his chairman, to have a study done by the Congressional Research Service, Authority to Order the Use of Nuclear Weapons (Government Printing Office, 1975) and to hold hearings of the House Subcommittee on International Security and Scientific Affairs, First Use of Nuclear Weapons: Preserving Responsible Control (94th Cong., 2d sess., 1976).

At last I'd gotten what I wanted. But the Subcommittee shied away from calling me as a witness, as Ottinger had suggested. Too controversial. And what they got didn't carry them very far. The study began by stating that under the Atomic Energy Act, only the President had the authority to decide to use nuclear weapons. But, it went on to say, the Constitution and governmental practice put no limits on his right to delegate that authority, if he chose. It said that whether the President had done that in this case, and if so when and how, "were highly classified matters," and their staff had not been able to discover anything about it.

The hearings had produced testimony by a Navy admiral, Gerald Miller, who had been head of the Joint Strategic Target Planning Staff at Omaha. Miller acknowledged that authority to use certain nuclear air-defense weapons had been delegated to CINCNORAD, the commander-in-chief of the North American Defense Command. (That much had been revealed in 1957 by General

Partridge, a former commander of NORAD. Partridge had been head of the task force on Presidential Command and Control on which I participated in 1961). But Miller said that no other delegation had been made, nothing relating to offensive use of weapons, to the best of his knowledge.

He might have been telling the truth, about his own knowledge. Or he might not. I would have expected the director of the JSTPS at SAC Headquarters to know of the delegation to CINCSAC. But if he did, he wouldn't have felt obligated to tell that in testimony to Congress. On the contrary, like Richard Helms, with respect to the covert actions against President Allende in Chile or Elliott Abrams on Iraqgate, he might have felt permitted and obligated to lie, to keep the secret. No government official has ever spent a day in jail for lying to Congress, even under oath, on a matter of "national security." But he might not have known more than he testified.

Anyway, I called Ottinger and told him that the hearings had produced (only) false testimony on this point, whether willfully false or not. That seemed reason enough to call me as a witness, however controversial I was. I could set the record straight.

He arranged for me to come to the Subcommittee. But at the last moment, he said that rather than reopen the hearings, Zablocki would listen to me "informally" in his office, with Ottinger present. I asked that at least there be a secretary present to make a record of what I had to say. That was arranged. I corrected Admiral Miller's testimony in detail, then went on for an hour and a half explaining the related risks in the command and control system.

Zablocki listened attentively but didn't interrupt. At the end of it, he asked only one question:

"But how do we know the Soviet system is any different?"

I had a sense of despair. His tone and wording suggested that he took for granted that if the Soviets had delegated authority to field commanders and had a warning and alert system prone to false alarms, we would be justified in doing the same, and in fact would have no other choice.

I said, "We don't. That means the situation is at least twice as bad as I've described, and really even worse. That's even more reason why this needs investigating, and changing." But Zablocki got up and the briefing was over. He held no more hearings on the subject.

The next year there was a breakthrough to new information. Seymour Hersh called me from Washington to say that he had mentioned what I had told him to a colonel in the Pentagon who dealt with Emergency Action messages, who had agreed with what I had said and was willing to say more. The next day, after talking to the colonel at greater length, Hersh called me again in great excitement.

"Listen, you were exactly right in everything you said, for the period you knew about, from 1957 to '64. You're right about Johnson and Goldwater. Nothing changed till '67, when there was a big fight, involving McNamara, and the orders were changed, in some detail¹, but the basic situation stayed the same.

"According to this guy, Nixon issued new directives, and so did Ford, and it changed again under Carter. But every time it was only wording and details that changed, the basic principle hasn't

¹ See <http://www.gwu.edu/~nsarchiv/nukevault/ebb406/> for changes by LBJ in October, 1968, after McNamara had left the DOD. These were finally declassified by request of the National Security Archive in December 12, 2012 (one month ago, as I write this). Nothing has surfaced, to my knowledge, on decisions in 1967. As Hersh had been told, the basic predelegation was maintained, as under Eisenhower and Kennedy.

changed. And it's still very dangerous, that's how he sees it, that's why he's talking to me."

Sy wanted any more details I could give him, but the main reason he was calling again was to make sure I didn't tell the story to anyone else at this point.

"I'm on to this now, I'm pursuing it, you've got to promise me you won't talk to anyone else."

I was happy to promise. He called again the next day, even more jubilant. "He's going to give me documents. And I've got another source, who again confirms everything you said, an Assistant Secretary! He's going to have lunch with me."

I'd never heard Sy sound so excited. "Dan, this is big! It's bigger than the CIA story!" [Sy's huge story of the CIA Inspector General's listing of the "family jewels," a panoply of crimes and abuses by the CIA, which had led to the investigations by the Rockefeller Commissions and the Church Committee.] "You've got to promise me to keep your mouth shut, till I've got it out."

And then...it closed down. I'd given Sy a small list of other people to talk to, and one of them had clearly alerted officials to what Sy was pursuing. The colonel told Hersh that the heat was on, his job was on the line. He couldn't say any more, he couldn't be quoted even without attribution, he couldn't show any documents. Sy had his lunch with the Assistant Secretary, who said Sy must have misunderstood him. He didn't have any documents, in fact he didn't know anything about the situation.

Sy was disconsolate. He said that his editors didn't want to run a story that was purely historical. He couldn't do a big piece unless he had the details on what the current system was, and

he didn't see any way to get that now. (Later he admitted to me, "It wasn't my editor, it was me. My situation at the Times at that moment was, I didn't want to run a purely historical piece. I had to know what was happening now.")

But how was he ever going to get that unless the subject were opened up? I suggested that even an item on the situation in the '60's might do that, especially now that he could confirm it. He didn't have to mention the colonel's name, or quote him. Sy had one suggestion. "If you can get your story into the press--you seem to have ways of doing that without me--if it turns into more than a one-day story, the Times can respond to the story. I'd see that the comment said, "The Times has independently confirmed..." your account. I can do that. That'll get the confirmation into the record, it'll move the story along."

It so happened that the antinuclear coalition The Mobilization for Survival had asked me to participate in a press conference just then in New York to announce disarmament actions planned around the UN Special Session on Disarmament. It wasn't the best auspices to break a story like this, and there probably wouldn't be very great attendance by the press, but all I needed was enough coverage to break loose a confirmation by Sy in the Times. I had agreed to say something at the conference, and now I asked them if they minded if I took it over, there were some things I needed to say to the press. That was fine with them.

As I expected, this particular press conference on November 4, 1977 didn't draw very heavy hitters, there were a dozen people or so mostly from the foreign press, but there was a young woman from the New York Post and someone from AP. I laid out my whole story at length, pretty much the whole briefing I had given to McGeorge Bundy sixteen years earlier and a lot that surrounded it. I started with the delegation issue, but this was the very first time I had spoken of any of these

issues in public, and once I got started I got carried away. (My recurrent problem with journalists, except when I'm on live TV. I give them far more than they want to know or can possibly use, they leave with glazed eyes and a battered look).

The next day the Post had a pretty good story on an inside page, and the Times had a half column drawn from AP.² Both of them reported my claim that three presidents had delegated authority to theater commanders and reported that the White House had no comment to make. Neither of them mentioned the further sub-delegations or any of the other things I had discussed, from war planning to the missile gap, but it looked like it might be a start of a public discussion, though I had an uneasy feeling that the Times might now have made its contribution to the issue, without any comment or confirmation by Sy. That turned out to be the case. The Post story even disappeared from subsequent editions of the Post, and it wasn't picked up by anyone else.

Apparently the "no comments" reported from the White House and Pentagon were enough, as before, to keep other journalists from pursuing the story. I couldn't help wishing that Sy's crucial confirmation could have weighed in during this opening round so the rest of the press could have had enough confidence in the story to pursue it further, but I had to recognize that his private condition for coming in on it hadn't been met. The story hadn't lasted even a full day in the news.

The War Resisters League, one of the sponsors of the press conference, transcribed my whole talk and published it in six pages of their journal, WIN (November 17, 1977). That was equivalent to a secret publication, except for select non-violent activists, but it did give me reprints to pass around to journalists, to no more effect than before. Over the years several journalists who

² "Ellsberg Says Army Held A-Bomb Power," New York Times, November 4, 1977, p. A9. Why was this assertion by me good enough for a news story in 1977, not years earlier? Apparently because the AP reported it; and it was good enough for them because they were reporting what I said in a public press conference.

had gone so far, after hearing me, as to approach the public affairs office of the Pentagon or the White House reported back to me that the response now took the form, "Yes, we know that Dan Ellsberg has been saying that. We have no comment." That still did the job of killing an investigation, with an effectiveness that continued, somewhat, to puzzle me.

My press conference in 1977 was the first public assertion by anyone that any president (I named three) had secretly violated public assurances against delegation, and my own statements then and later continue to be the only citable sources on the subject. Thus, when the first thorough account of command and control problems, Paul Bracken's The Command and Control of Nuclear Forces, came out in 1983, he cited my assertions from the 1977 New York Times squib and quoted at length an interview I gave on the subject in 1980.¹

In the 26 years since Eisenhower had first sent his secret letters, there was still no one else to quote on this issue, despite the fact that, according to Hersh's sources, five subsequent presidents had secretly followed him in making comparable delegations. (Given that record, I would say that the chance that the next three presidents, Reagan, Bush and Clinton, did not all continue down that path is essentially zero). No one else has ever talked. Some secrets are very well kept.

[1974, Morris and Ahmad on Nixon nuclear first-use threats; told McGovern in early 1973. I begin to investigate others...

1973: nuclear threats in Yom Kippur war; alerts (do Nixon, Haig and Kissinger know what was involved?) Study on this comes out by Betts and --- in ?]

1975? (in SF house): Cronkhite/Schachne; Woodward/Bernstein;

Gravel/Erwin, etc. Symington (write me a letter?) (earlier: any reason you can't say all this at hearings? Get my testimony before their committee)

Ottinger; hearings; Zablocki. 1975, 1976

Hersh; WIN conference Nov. 4, 1977; NY Post, NYT

My speeches for Mobilization for Survival

Rocky Flats [Neutron bomb; following trip to Europe]: Nagasaki Day, 1978; Spenard; testimony, Nov. 78

NBC interview set up; I leave jail, prepare, see Tom Brokaw: and he backs off, when he sees the questions on the monitor (I give interview on Rocky Flats to CBS, and am barred from Today show).

Conservation Press, 1980;

On LST: Wash Post, press conference, 1981? (same trip? I take Halperin study to Japan?)

Reischauer, Nitze...

Paul Bracken, Command and Control, 1983, quotes me

----book on The Button (New Yorker writer: Lerner? Newhouse? Can't get an answer on delegation.

Rosenberg (?) article: can't get an answer, but cites "bent spoon" even in Minuteman silos.

Blair work: eventually, on Soviet dead-hand, doomsday mechanism

Late 80's, conferences on Cuban Missile Crisis (Blight): info on Soviet nuclear warheads in Cuba, delegation.

Get:

--(TR) all references, clips, in Bracken, Command and Control

--studies on delegation, first-use;

--my files on 1964...

--The Button; Blair; Rosenberg

Talk to: Hersh (get his files from 1977)

Schachne, Woodward, Bernstein

Ottinger

BLAIR

SAGAN

TLC (?--why didn't they use my interview?)

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1. Bracken (New Haven, 1983) pp. 198-99; 228-29, citing "Nuclear Armament, an interview with Dr. Ellsberg," Conservation Press, 1980.